

CSD 1160 [05/15/03]

Name, Address, Telephone No. & I.D. No.

WILLIAM G. MALCOLM, #129271**KEVIN HAHN, #231579****MALCOLM ♦ CISNEROS, A Law Corporation****2112 Business Center Drive, 2nd Floor****Irvine, California 92612****(949) 252-9400 (TELEPHONE) (949) 252-1032 (FACSIMILE)****UNITED STATES BANKRUPTCY COURT**

SOUTHERN DISTRICT OF CALIFORNIA

325 West "F" Street, San Diego, California 92101-6991

In Re

MICHAEL R. PATTERSON,

Debtor.

BANKRUPTCY NO. **09-10872-JM7****JPMORGAN CHASE BANK, NATIONAL ASSOCIATION,
and its successors and/or assignees,**RS NO. **WGM-1**

Moving Party

**MICHAEL R. PATTERSON, Debtor,
and James L. Kennedy, Trustee,**

Respondent(s)

MOTION FOR RELIEF FROM AUTOMATIC STAY
 REAL PROPERTY **PERSONAL PROPERTY**

Movant in the above-captioned matter moves this Court for an Order granting relief from the automatic stay on the grounds set forth below:

1. A Petition under Chapter 7 11 12 13 was filed on **July 28, 2009**.
2. Procedural Status:
 - a. Name of Trustee Appointed (*if any*): **James L. Kennedy**
 - b. Name of Attorney of Record for Trustee (*if any*):
 - c. (*Optional*) Prior Filing Information:
Debtor has previously filed a Bankruptcy Petition on: _____.
If applicable, the prior case was dismissed on: _____.
 - d. (*If Chapter 13 case*): Chapter 13 plan was confirmed on _____ or a confirmation hearing is set for _____.

Movant alleges the following in support of its Motion:

1. The following real property is the subject of this Motion:
 - a. Street address of the property including county and state:
**715 Tangiers Court
San Diego, CA 92109**
 - b. Type of real property (e.g., single family residence, apartment building, commercial, industrial, condominium, unimproved):
Single family residence
 - c. Legal description of property is attached as Exhibit A.

d. If a chapter 11 or 13 case and if non-payment of any post-petition payment is ground for relief, attach the accounting required by Local Bankruptcy Rule 4001-2(a)(4) as Exhibit B.

e. *Fair market value of property as set forth in the Debtor's Schedules : \$850,000.00.

f. *Nature of Debtor's interest in the property:

Owner

2. The following personal property is the subject of this Motion (*describe property*):

a. Fair market value of property as set forth in the Debtor's Schedules: \$_____.

b. Nature of Debtor's interest in the property:

3. *Fair market value of property according to Movant:\$_____.

4. *Nature of Movant's interest in the property: **Secured Creditor holding a First Note and Deed of Trust on the subject property.**

5. *Status of Movant's loan:

a. Balance owing on the date of Order for Relief:	<u>\$941,605.88</u>
b. Amount of monthly payment:	<u>\$3,779.82</u>
c. Date of last payment:	<u>October 8, 2008</u>
d. If real property,	
i. Date of default:	<u>September 1, 2008</u>
ii. Notice of Default recorded on:	<u>March 18, 2009</u>
iii. Notice of Sale published on:	<u>June 24, 2009</u>
iv. Foreclosure sale currently scheduled for:	<u>July 13, 2009</u>
e. If personal property,	
i. Pre-petition default: \$_____	No. of months:_____
ii. Post-petition default: \$_____	No. of months:_____

6. (*If Chapter 13 Case, state the following:*)

a. Date of post-petition default: _____
Amount of post-petition default: \$_____

7. Encumbrances:

a. Voluntary encumbrances on the property listed in the Schedules or otherwise known to Movant:

Lender Name	Principal Balance	(IF KNOWN) Pre-Petition Arrearages		Post-Petition Arrearages	
		Total Amount - # of Months:		Total Amount - # of Months	
1 st : JPMORGAN CHASE BANK	<u>\$941,691.88</u>	<u>\$41,503.37</u>	<u>11</u>	<u>\$3,968.81</u>	<u>1</u>
2 nd : WASHINGTON MUTUAL MORTGAGE	<u>\$204,602.00</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>
3 rd : Mariluz Cornejo	<u>\$100,000.00</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>
4 th :					
Totals for all Liens:	<u>\$1,246,293.88</u>	<u>\$41,503.37</u>	<u>11</u>	<u>\$3,968.81</u>	<u>1</u>

b. Involuntary encumbrances of record (e.g., tax, mechanic's, judgment and other liens, lis pendens) as listed in the schedules or otherwise known to Movant:

See attached page, if necessary.

*Separately filed Declaration required by Local Bankruptcy Rule 4001-2(a)(5.)

8. Relief from the automatic stay should be granted because:

- Movant's interest in the property described above is not adequately protected.
- Debtor has no equity in the real property personal property described above and such property is not necessary to an effective reorganization.
- The property is a "single asset real estate", as defined in 11 U.S.C. § 101(51B), and 90 days (or _____ days as ordered by this court) have passed since the entry of the order for relief in this case, and
 - The Debtor/Trustee has not filed a plan of reorganization that has a reasonable possibility of being confirmed within a reasonable time; and
 - The Debtor/Trustee has
 - not commenced monthly payments to each creditor whose claim is secured by the property (other than a claim secured by a judgment lien or by an unmatured statutory lien), or
 - commenced payments, but such payments are less than the amount equal to interest at a current fair market reate on the value of each creditors' interest in the property.
- *Other cause exists as follows (specify): See attached page.

Movant attaches the following:

1. Other relevant evidence:

Debtor's Schedules as Exhibit "E"

The affidavit of the FDIC evidencing JPMorgan Chase Bank's acquisition of assets of Washington Mutual Bank, F.A. is attached hereto as Exhibit "F."

2. (Optional) Memorandum of points and authorities upon which the moving party will rely.

WHEREFORE, Movant prays that this Court issue an Order granting the following:

Relief from the automatic stay to allow JPMORGAN CHASE BANK to enforce its rights and remedies under its Note and Deed of Trust.

Other: **JPMORGAN CHASE BANK requests a waiver of the 10-day stay provided by Rule 4001(a)(3) of the Federal Rules of Bankruptcy Procedure.**

Dated: **August 24, 2009**

/S/ WILLIAM G. MALCOLM
 [Attorney for] Movant,

PN/JPM/40240
 Loan No. xxx-xxx-2652

* Separately filed Declaration required by Local Bankruptcy Rule 4001-2(a)(5).